

2005 DRAFTING REQUEST**Senate Amendment (SA-SB226)**Received: **09/14/2005**Received By: **dkennedy**Wanted: **As time permits**

Identical to LRB:

For: **Carol Roessler (608) 266-5300**By/Representing: **Herself**This file may be shown to any legislator: **NO**Drafter: **dkennedy**May Contact: **Laura Rose, Leg. Council**

Addl. Drafters:

Subject: **Mental Health - detent/commit**

Extra Copies:

Submit via email: **YES**Requester's email: **Sen.Roessler@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Inpatient and outpatient treatment for mental illness and developmental disabilities for minors

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	dkennedy 09/20/2005	lkunkel 09/21/2005		_____			
/1			rschluet 09/21/2005	_____	mbarman 09/21/2005	mbarman 09/21/2005	
/2	dkennedy 09/22/2005	lkunkel 09/22/2005	rschluet 09/22/2005	_____	sbasford 09/22/2005	sbasford 09/22/2005	

FE Sent For:

<END>

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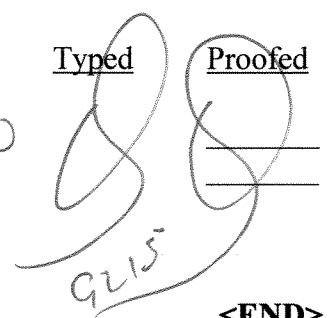
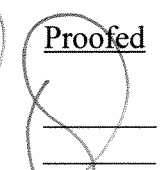
Topic:

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/?	dkennedy	1/mk 9/20					

FE Sent For:

<END>

Stegall, Jennifer

Subject: FW: SB 226 mental health treatment for minors over 14.

From: Rose, Laura
Sent: Tuesday, August 09, 2005 11:31 AM
To: Stegall, Jennifer
Subject: RE: SB 226 mental health treatment for minors over 14.

Hi Jennifer,

Nope, the bill applies to minors under age 18.

Laura

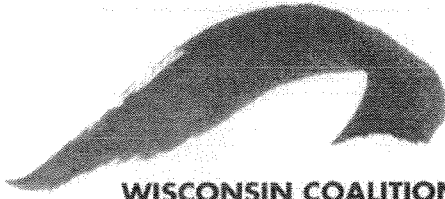
From: Stegall, Jennifer
Sent: Tuesday, August 09, 2005 10:57 AM
To: Rose, Laura
Subject: SB 226 mental health treatment for minors over 14.

<< File: 8-8-05 SB 226.pdf >>

FYI...here is an e-mail that was sent to Health Committee members.

This memo references 14-18 year old children. SB 226 references minors 14 years of age or older. I thought that meant 14-17 year olds. I think that was our intent. Do you think the bill applies to 18 year olds?

Thanks,
Jennifer



WISCONSIN COALITION FOR ADVOCACY

THE PROTECTION AND ADVOCACY SYSTEM FOR PEOPLE WITH DISABILITIES

June 14, 2005

To: Senate Committee on Health, Children, Families, Aging and Long Term Care

From: Dianne Greenley, Supervising Attorney
Wisconsin Coalition for Advocacy

Re: 2005 Senate Bill 226 - Mental Health Treatment for Minors

The Wisconsin Coalition for Advocacy is the state's protection and advocacy agency for persons with mental illness and other disabilities in Wisconsin. In this role we provide advocacy and legal services for minors and adults with mental illness and have considerable experience with children who have been admitted to psychiatric facilities. Due to our role and experience we were asked by Senator Roessler to participate in the committee which developed the concepts contained in S.B. 226. We wish to commend Senator Roessler for convening this committee and for developing a bill which is an improvement over 2003 Senate Bill 397 which dealt with the same subject matter.

However, because the bill changes the requirement that both adolescents age 14 and older and their parents must consent to inpatient psychiatric hospital admission, we oppose the bill. We are concerned that this major change in the law may lead to increased, inappropriate hospital utilization. Coerced hospital admission is frightening for an adolescent and may lead to anger and mistrust and increased resistance to mental health services in the future. It also goes against the grain of a number of policy developments in Wisconsin.

First, the state has put considerable effort into developing community based mental health services for children and adolescents. Increased hospital utilization could cut into the funding for these programs, especially in very tight state and county budgets. Second, for persons with private insurance, there has been an effort for many years to achieve parity in insurance coverage for mental health services. Opening the door for increased hospital usage for minors may hinder this effort as insurance companies fear increased costs. Third, eliminating a minor's decision-making in this area sends very mixed messages to adolescents. In the criminal justice area they are being held responsible at younger ages while in the mental health area responsibility is being taken away and given to parents. Finally, the state has adopted recovery as the guiding principle for mental health services. This principle includes the concept of consumer empowerment and responsibility. Removing adolescents from the ability to make decisions about hospital care, cuts into their ability to be truly engaged in their own recovery process.

The bill also makes changes in consent to outpatient treatment and psychotropic medications. We are also concerned about these changes for some of the above reasons, but less so because

they do not involve as substantial a deprivation of liberty and have more modest cost implications.

On the positive side, we believe that the court review mechanisms when a minor refuses to sign the consent forms, in both the public and private sectors, do provide significant safeguards. We urge that these review processes not be removed from the bill. Having court review will provide incentives for obtaining the adolescent's consent, as well as providing a check on inappropriate admissions.

As the protection and advocacy agency we are also willing to provide assistance to adolescents who are resisting their hospital admission, although we have requested a modification to the language in the bill so that this assistance is not a "right". We have limited resources and thus need the ability to review requests for assistance and to determine whether we can actually provide the help that is being sought. *

Finally, I have reviewed the bill fairly carefully, and have the following requests for some language changes and clarifications. They are as follows:

✓ 1. Timing for review hearing - Section 51.13(4)(d) - Pages 10 and 11.

The bill follows current law which requires that if a hearing is held it must be within 14 days of hospital admission or application; such a hearing will be required if an adolescent is admitted to the hospital or given psychotropic medication without his/her consent. Given that many admissions are less than 14 days, will this review be timely and meaningful? We suggest that the time frame be shortened to 7 days exclusive of weekends and holidays.

2. Short term admissions - Section 51.13(6)(a)2. - Page 13, lines 9 - 14.

In general short term hospital admissions of less than 12 days do not require court review. However, the bill requires that an admission without the adolescent's consent will be subject to court review. The bill, however, does not specify who will be responsible for filing the petition triggering the review. We believe that it should be the treatment director of the facility, which is the same for other hospital admissions.

As noted above there is also a timing problem. If the court does not hold a hearing until 14 days after admission, the adolescent will no longer be in the facility. Thus, we urge that these hearings be held within 7 days including weekends and holidays, given the very short time frame.

3. Administration of psychotropic medication - Section 51.135(1)(b) - Page 17, lines 1 - 10.

The bill provides for a court review of psychotropic medications provided on either an inpatient or outpatient basis without the adolescent's consent. However, the bill does not specify who is responsible for petitioning the court to trigger the review. As in the above provisions, we believe that it should be the treatment director of the facility. Also, for inpatient administration of medications, the same timing issues exist as for review of hospital admissions without the adolescent's consent.

✓ 4. Outpatient treatment - Mental health review officer review - Section 51.14(3)(a) - Page 18, lines 17 - 24. The bill allows a minor to petition a juvenile court mental health review officer to allow outpatient treatment when a parent or guardian is unavailable to give consent or is refusing to consent. We believe that this provision should be modified to allow a minor or a person acting on the minor's behalf to file this petition. This would make this provision parallel to those for approval of inpatient admission or psychotropic drugs when a parent or guardian is not available or is refusing. The bill is unclear about who files the petition if the review concerns consent by the parent or guardian and refusal by the adolescent. Once again we urge that this duty be given to the treatment director of the outpatient facility.

✓ 5. Outpatient treatment - Court review - Section 51.14(4)(a) - Page 20, lines 10 - 17. This section allows a minor to petition for court review of a mental health review officer's decision concerning outpatient treatment when the parent or guardian refuses or is not available or decision allowing treatment without the adolescent's consent. Once again we urge that the language be changed to allow a person acting on behalf of the minor to file this petition.

✓ 6. Access to records by parents or guardian - Section 51.30(5)(b)1. - Page 21, lines 14 - 21
My understanding is that the changes in this section were intended to remove that ability of a minor with a developmental disability to block parental access to records. However, the bill goes substantially beyond this by deleting the sentence in lines 19 - 20 that reads: "The parent, guardian, or person in place of the parent of other minors shall have the same rights of access as provided to subject individuals under this section". By making this change a parent, guardian, or person acting in place of a parent can have access to a minor's mental health treatment records at any time, including while the minor is in treatment. This is a very serious and substantial change, especially in cases of child abuse or neglect or when children are the subject of a custody dispute. Thus, we strongly urge that this sentence not be deleted from current law.

Shd
combine
2
sentences
to
achieve
this

7. Access to records by minors - Section 51.30(5)(b)2. - Page 21, lines 23 - 24.
The bill changes the law regarding a minor's access to records by allowing a minor age 14 or older to access inpatient records (by specifically referencing the inpatient admission statutes), but limits the minor's access to outpatient records. I believe that was not the intended purpose of the change. Nonetheless, the bill needs to be modified so that the access to both inpatient and outpatient records is the same for minors age 14 and older.

51.14 ?
Check
to make
sure

SB226

He is Mark Quorn

Stegall, Jennifer

From: Mark Grapentine [MarkG@WISMED.ORG]
Sent: Thursday, June 16, 2005 10:08 AM
To: Stegall, Jennifer
Subject: Fwd: my comments to send in on Amendment to SB 226

Jen:

Happy Thursday!

Dr. Falik wanted me to send you her comments. I'll be getting you the other physician's testimony as well.

Let me know how I can be helpful!
 mg

>>> "HFalik" <hfalik@wi.rr.com> 6/16/05 12:28:17 AM >>>

Action item: my comments to send in on Amendment to SB 226

Hi Mark.

It was good seeing you on Tuesday. Could you forward these comments to Senator R for me? Thanks.

The WIAAP supports the Shaken Baby bill but OPPOSES the section in SB 226 that would require physicians to obtain written, informed consent when prescribing psychoactive drugs for minors, especially in the outpatient environment which could easily be interpreted to include physician's offices.

51.135

- ❖ Written informed consent is not required for other non-research drugs in primary care offices.
- ❖ There is a severe shortage of child psychiatrists, (6,000 nationally with a need for 30,000), so pediatricians and primary care physicians treat children for depression and ADHD in the office setting.
- ❖ My office tried getting routine signed consent for childhood vaccinations. Parents often went into "fear mode", thinking something awful would happen if we required signatures. Since we routinely discussed side effects and gave out printed information about immunizations, we abandoned this plan.
- ❖ Requiring signatures only for psychoactive drugs would further stigmatize mental health treatment, making it different from other illnesses.

Holly Falik, MD, MPH, FAAP

06/20/2005



Mental Health Association in Milwaukee County

Leading the way for Wisconsin's Mental Health

Mental Health Association in Milwaukee County

Testimony on SB226

Senate Health, Children, Families, Aging and Long-Term Care Committee

The Mental Health Association in Milwaukee County (MHA) believes that it is important to balance the responsibilities of parents of adolescents for the health and well being of their children with the rights of those adolescents. This is no easy task and I commend the committee for the work you have done to attempt to address this.

The MHA believes that the changes SB226 makes in consent to treatment requirements for adolescents for inpatient services appropriately recognize that parents need to be given the opportunity to require treatment over the objections of the youth, especially to ensure the safety of their children. The bill does provide due process rights for youth, although the MHA is concerned about whether access to the courts will be a viable, pragmatic option for resolving disputes about the need for treatment. We support youth having access to services from the protection and advocacy agency, but wonder whether additional funding is needed to make this right to access meaningful.

The rationale for treatment without consent for outpatient treatment is less compelling given the less urgent nature of the need that we presume exists in these situations. We believe the process in current law is preferable in that it mandates review by a mental health review officer prior to the youth being required to enter treatment. Whether the committee approves the language in SB226 or keeps current language in this area the committee should address the fact that the process outlined in current law for review by mental health review officers does not appear to be operational. Based on discussions with others knowledgeable about county mental health services the MHA understands that there are not identified review officers in all counties across Wisconsin. Unless this review process is available in a meaningful way neither current law nor the changes proposed in SB226 ensure due process for either the youth or the family. The MHA recommends that the bill be modified directing the Department of Health and Family Services to compile a list of mental health review officers for every county, post this list on its website and update it yearly.

Milwaukee Office
734 North 4th Street, Suite 200
Milwaukee, WI 53203-2102
Tel: (414) 276-3122 • Fax: (414) 276-3124
Email: mha@mhamilw.org

Office of Public Policy
133 South Butler Street, Lower Level
Madison, WI 53703
Tel: (608) 250-4368 • Fax: (608) 442-8036
Email: shelgross@tds.net

www.mhamilw.org
(877) 642-4630 (for information and resources only)
An affiliate of the National Mental Health Association



A United Way Agency

*Already can:
input? - 5/13 (X) (1)
output? 5/14 (3) (h)*

*(not for short-term
under 5/13 (6),
though)*

The MHA would support a change to SB226 that would allow youth 14 years of age and older to consent to treatment without approval of a parent. There are situations, especially those where there may be abuse in the family, where parents may not act in the best interest of their children. We also know that there are simply times when an adolescent can talk about things with someone other than a parent that they would not want to have to reveal to the parent. In many cases insurance issues will result in parents needing to be notified at some point, but there are no-cost options available to youth that would allow them to take advantage of treatment without a parent's consent.

The MHA strongly supports early intervention for mental disorders and we believe the solution is really not in who can consent to treatment but in transforming the mental health system so that earlier intervention with options more acceptable to youth are available statewide. The National Institute of Mental Health last week released reports on its latest epidemiological studies of mental illness. The reports find that half of all lifetime cases of mental illness begin by age 14 but that most people delay treatment for years, sometimes decades. The lack of investment in mental health services, the limited ability of the primary care sector to appropriately meet the mental health needs of individuals with less serious disorders and the continuing stigma around mental illness are the underlying problems here. SB226 will have some level of impact on a relatively small population of individuals. The larger failure to identify and treat mental disorders impacts thousands and results in a huge burden to the public sector.

Therefore, recognizing that neither current law nor the proposed changes in SB226 are ideal, my message is really this: if you have an opportunity to support more access to mental health services by removing limitations in health insurance coverage, please do so; if you have the opportunity to support more access to mental health services by opposing restrictions on access to mental health medications, please do so; if you have the opportunity to support increased screening for mental disorders in youth and more early intervention, please do so; if you have the opportunity to support the expansion of wraparound services for youth with emotional disorders, please do so. If you are concerned about kids who need treatment receiving that treatment this law alone will be of little value—you need to support legislation and funding that will increase the availability of treatment options.

**For additional information contact Shel Gross, Director of Public Policy
Ph: 608-250-4368; email: shelgross@tds.net**

Kennedy, Debora

From: Malszycki, Marcie
Sent: Tuesday, August 23, 2005 3:06 PM
To: Rose, Laura; Kennedy, Debora; 'mquam@co.winnebago.wi.uw'; 'Dianneg@w-c-a.org'; 'mrolli@wisc.edu'; 'vakaukl@wisc.edu'; 'kherrman@facstaff.wisc.edu'
Subject: Meeting on September 14th
Attachments: Mental Health Group Materials.pdf

Hi everyone,

This is a reminder/ update on the meeting Senator Roessler requested with all of you on September 14th at 10:00 here in her office, room 8 South. I am still waiting to hear back from two people who are on vacation but it looks like this date and time will work.

I have attached some information that she would like you to have prior to the meeting.

Thank you again and I will update you all only if the meeting needs to be changed due to the two people I am waiting to hear from.

Sincerely,

Marcie Malszycki
Office of Senator Carol Roessler
608-266-5300/ 1-888-736-8720



Mental Health
Group Materials....

9/14/05 Mtg. re SB 226 - Sen. Roessler, Laura Rose, Jennifer Stegall, Hugh Davis, Mark ~~Boyd~~ Quam

p-18, ll 9+10 ? - DAK will fix - does not create change

9/15 TO BE DONE BY CHIEF CLERK'S CORREC.

Amendment

6/14/05
① Dianne Greenley memo

✓ 1. ok - shorten time frame to 7 days exc. of holidays or weekends

✓ 2. a. ^{ok} Treatment dir. ^{or designer} of facil responsible to help if review is requested

- b. ^{ok, except} 7 days excluding weekends + holidays

✓ 3. a. ^{ok} Treatment dir or designee responsible to help file petit if review is requested

- b. ^{ok, except from date of request} 7 days excluding weekends + holidays

- c. For outpt, may be reviewed by jws. ct. m. h. ^{review} officer; for inpt, may be reviewed by ct.

✓ 4. a. ^{ok} petit for review of parent's refusal to be filed on behalf of minor

- b. ^{ok} petit for review of minor's refusal to be filed by treatment dir of o/p facil or his/her designee

✓ 5. ok petit to be filed on behalf of minor

✓ 6. → shall have access to minor's records unless
 (a) - evidence of abuse or neglect or Protect record indicators
 evidence of the potential for abuse or neglect, as determined by treatment director
 parent, guardian, person in place of parent

minor:
access

✓ (no) (b) custody dispute

✓ 7. old - Expand to §1.14 no; change to c.law ~~and~~ check to make sure this includes all opt.

✓ Memo from Mark Grapentine
leave bill as is

✓ Memo from Shel Gross
Require DHFS to compile list, post + update as necessary

✓ Coalit for Advocacy:
make minor's right to WCA assistance to rt. to be informed abt. how to contact WCA

AMENDMENT TO SB 226
(CHANGE WAS REQUESTED BY WISCONSIN COALITION FOR
ADVOCACY)

- SECTION 10 OF THE BILL STATES, “PRIOR TO ADMISSION...THE MINOR... AND THE MINOR’S PARENT OR GUARDIAN...SHALL BE INFORMED ...OF... THE MINOR’S RIGHT TO ASSISTANCE FROM THE STATE PROTECTION AND ADVOCACY AGENCY.
- THIS MAKES SERVICES FROM THE STATE PROTECTION AND ADVOCACY AGENCY AN ENTITLEMENT. WISCONSIN COALITION FOR ADVOCACY HAS INDICATED:

“WISCONSIN COALITION FOR ADVOCACY IS NOT MANDATED BY EITHER FEDERAL OR STATE LAW TO PROVIDE ANY PARTICULAR SERVICE TO ANY PARTICULAR CLASS OF POTENTIAL CLIENTS. GIVEN THE LIMITS ON OUR FUNDING AND THE LARGE NUMBER OF REQUESTS FOR ASSISTANCE WE RECEIVE, IT WOULD BE PROBLEMATIC TO START IDENTIFYING SPECIFIC SUBPOPULATIONS AND GRANTING THEM AN ENTITLEMENT TO ADVOCACY...”

- THE AMENDMENT CHANGES THE RIGHT TO ASSISTANCE FROM THE STATE ADVOCACY AGENCY TO THE RIGHT TO BE INFORMED ABOUT HOW TO CONTACT THE STATE ADVOCACY AGENCY.



WEDNESDAY 9/21
State of Wisconsin
2005 - 2006 LEGISLATURE

LRBa0986/1

DAK:.....

Imk

D-NOTE

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

SENATE AMENDMENT ,
TO 2005 SENATE BILL 226

At the locations indicated, amend the bill as follows:

1. Page 8, line 20: delete "assistance from" and substitute "be informed about how to contact".

2. Page 9, line 23: after "admitted" insert "or his or her designee".

3. Page 9, line 24: after "center" insert "or his or her designee".

4. Page 10, line 24: delete "14 days" and substitute "14 7 days, exclusive of weekends and legal holidays".

5. Page 10, line 25: delete "14 days" and substitute "14 7 days, exclusive of weekends and legal holidays".

6. Page 11, line 8: delete "14 days" and substitute "14 7 days, exclusive of weekends and legal holidays".

1 **7.** Page 11, line 12: delete "may receive assistance from" and substitute "shall
2 be informed about how to contact".

3 **8.** Page 13, line 14: after "(d)." insert "If a review is requested, the treatment
4 director of the facility to which the minor is admitted or his or her designee or, in the
5 case of a center for the developmentally disabled, the director of the center or his or
6 her designee shall file a verified petition for review of the admission on behalf of the
7 minor.".

8 **9.** Page 17, line 8: after "(d)." insert "If a review is requested, the treatment
9 director of the facility to which the minor is admitted or his or her designee or, in the
10 case of a center for the developmentally disabled, the director of the center or his or
11 her designee shall file a verified petition for review of the administration of
12 psychotropic medication as inpatient treatment on behalf of the minor.".

13 **10.** Page 18, line 17: delete "~~or~~" and substitute "^{older}or".

14 **11.** Page 18, line 18: after "guardian" insert "a person acting on behalf of the
15 minor".

16 **12.** Page 18, line 22: delete that line.

17 **13.** Page 18, line 23: before "minor" insert "^{older}For a".

18 **14.** Page 18, line 24: after "refusal" insert ", the treatment director of the
19 outpatient facility shall file a petition for review of the informed consent on behalf
20 of the minor".

21 **15.** Page 20, line 12: delete "~~or his or her parent or guardian~~" and substitute
22 "~~or his or her parent or guardian~~ a person acting on behalf of the minor".

23 **16.** Page 21, line 2: after that line insert:

“SECTION 41m. 51.14 (7) of the statutes is created to read:

51.14 (7) LISTING OF MENTAL HEALTH REVIEW OFFICERS. ✓ The department shall compile a list that specifies the mental health review officers in each county, post the list on the department's website, and update the list as necessary." ✓

17. Page 21, line 21: after “section” insert “, unless the treatment director of the inpatient facility or outpatient facility determines that there is evidence that the minor has suffered abuse or neglect or that the treatment record indicates evidence of the potential for the minor to suffer abuse or neglect”.

18. Page 21, line 22: delete the material beginning with that line and ending with page 23, line 4 and substitute:

“SECTION 44m. 51.30 (5) (b) 2. of the statutes is amended to read:

51.30 (5) (b) 2. A minor upon reaching the age of who is aged 14 or older shall have access to his or her own court and treatment records, as provided in this section. A minor under the age of 14 shall have access to court records but only in the presence of a parent, guardian, counsel, guardian ad litem or judge and shall have access to treatment records as provided in this section but only in the presence of a parent, guardian, counsel, guardian ad litem or staff member of the treatment facility. 17

History: 1975 c. 430; 1977 c. 26 s. 75; 1977 c. 61, 428; 1979 c. 110 s. 60 (1); 1983 a. 27, 292, 398, 538; 1985 a. 29, 176; 1985 a. 292 s. 3; 1985 a. 332 ss. 97, 98, 251 (1); 1987 a. 352, 355, 362, 367, 399, 403; 1989 a. 31, 334, 336; 1991 a. 39, 189; 1993 a. 166, 445, 479; 1995 a. 169, 440; 1997 a. 35, 231, 237, 283, 292; 1999 a. 32, 78, 79, 109; 2001 a. 16, 38, 206 a. 25.

19. Page 24, line 2: delete “may receive assistance from” and substitute “shall be informed about how to contact”.

(END)

D-NOTE

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0986/7dn

DAK:.....

lmk

(date)

✓
To Senator Roessler:

✓
In this amendment, I have substantially changed the treatment of s. 51.30 (5) (b) 2., stats., (access by a minor to his or her court or treatment records) from the bill. Dianne Greenley's memorandum of June 14, 2005, pointed out that the treatment in the bill only provided access by minors aged 14 or older to records of inpatient treatment; the group that met on September 14, 2005, decided to expand access to outpatient treatment and court records under s. 51.14, stats., as well. However, the statutes referenced in the bill and under the group's decision are relevant only to the receipt of services for mental health or developmental disability; they do not include the receipt of services for alcohol or other drug abuse. ✓ Therefore, if I were only to add the change requested by the group, the statute then would provide access by a minor aged 14 or older to outpatient or inpatient court and treatment records for mental health or developmental disability, but not to outpatient or inpatient alcohol or other drug abuse court or treatment records. ✓ I believe this is an inadvertency; it was my understanding that the group did not intend to change current law with respect to alcohol or other drug abuse services for minors. ✓ If I add in reference to access by a minor to records of outpatient or inpatient treatment for alcohol or other drug abuse, the statute then is extremely similar to current law, which provides generalized access to minors aged 14 or older to court or treatment records, without specifying the type of treatment the minor received. ✓ I consulted with Jennifer Stegall and Laura Rose, and they agreed that the statute should revert to current law, except for a minor change that refers to a "minor who is aged 14 or older," rather than "a minor upon reaching the age of 14," ✓ to conform the statute to the way such a minor is described in the rest of the bill. ✓

Please let me know if you need other assistance with respect to this amendment. ✓

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0986/1dn
DAK:lmk:rs

September 21, 2005

To Senator Roessler:

In this amendment, I have substantially changed the treatment of s. 51.30 (5) (b) 2., stats., (access by a minor to his or her court or treatment records) from the bill. Dianne Greenley's memorandum of June 14, 2005, pointed out that the treatment in the bill only provided access by minors aged 14 or older to records of inpatient treatment; the group that met on September 14, 2005, decided to expand access to outpatient treatment and court records under s. 51.14, stats., as well. However, the statutes referenced in the bill and under the group's decision are relevant only to the receipt of services for mental health or developmental disability; they do not include the receipt of services for alcohol or other drug abuse. Therefore, if I were only to add the change requested by the group, the statute then would provide access by a minor aged 14 or older to outpatient or inpatient court and treatment records for mental health or developmental disability, but not to outpatient or inpatient alcohol or other drug abuse court or treatment records. I believe this is an inadvertency; it was my understanding that the group did not intend to change current law with respect to alcohol or other drug abuse services for minors. If I add in reference to access by a minor to records of outpatient or inpatient treatment for alcohol or other drug abuse, the statute then is extremely similar to current law, which provides generalized access to minors aged 14 or older to court or treatment records, without specifying the type of treatment the minor received. I consulted with Jennifer Stegall and Laura Rose, and they agreed that the statute should revert to current law, except for a minor change that refers to a "minor who is aged 14 or older," rather than "a minor upon reaching the age of 14," to conform the statute to the way such a minor is described in the rest of the bill.

Please let me know if you need other assistance with respect to this amendment.

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TODAY
State of Wisconsin
2005 - 2006 LEGISLATURE

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✓
SENATE AMENDMENT ,
TO 2005 SENATE BILL 226 ✓

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 8, line 20: delete "assistance from" and substitute "be informed about
3 how to contact".

4 **2.** Page 9, line 23: after "admitted" insert "or his or her designee".

5 **3.** Page 9, line 24: after "center" insert "or his or her designee".

6 **4.** Page 10, line 24: delete "14 days" and substitute "14 7 days, exclusive of
7 weekends and legal holidays,".

8 **5.** Page 10, line 25: delete "14 days" and substitute "14 7 days, exclusive of
9 weekends and legal holidays,".

10 **6.** Page 11, line 8: delete "14 days" and substitute "14 7 days, exclusive of
11 weekends and legal holidays,".

1 **7.** Page 11, line 12: delete “may receive assistance from” and substitute “shall
2 be informed about how to contact”.

3 **8.** Page 13, line 14: after “(d).” insert “If a review is requested, the treatment
4 director of the facility to which the minor is admitted or his or her designee or, in the
5 case of a center for the developmentally disabled, the director of the center or his or
6 her designee shall file a verified petition for review of the admission on behalf of the
7 minor.”.

8 **9.** Page 17, line 8: after “(d).” insert “If a review is requested, the treatment
9 director of the facility to which the minor is admitted or his or her designee or, in the
10 case of a center for the developmentally disabled, the director of the center or his or
11 her designee shall file a verified petition for review of the administration of
12 psychotropic medication as inpatient treatment on behalf of the minor.”.

13 **10.** Page 18, line 17: delete “older or” and substitute “older or”.

14 **11.** Page 18, line 18: after “guardian” insert “a person acting on behalf of the
15 minor”.

16 **12.** Page 18, line 22: delete that line.

17 **13.** Page 18, line 23: before “minor” insert “For a”.

18 **14.** Page 18, line 24: after “refusal” insert “, the treatment director of the
19 outpatient facility shall file a petition for review of the informed consent on behalf
20 of the minor”.

21 **15.** Page 20, line 12: delete “~~or his or her parent or guardian~~” and substitute
22 “~~or his or her parent or guardian~~ a person acting on behalf of the minor”.

23 **16.** Page 21, line 2: after that line insert:

“SECTION 41m. 51.14 (7) of the statutes is created to read:

51.14 (7) LISTING OF MENTAL HEALTH REVIEW OFFICERS. The department shall compile a list that specifies the mental health review officers in each county, post the list on the department's website, and update the list as necessary.”.

17. Page 21, line 21: after “section” insert “, unless the treatment director of the inpatient facility or outpatient facility determines that there is evidence that the minor has suffered abuse or neglect or that the treatment record indicates evidence of the potential for the minor to suffer abuse or neglect”.

18. Page 21, line 22: delete the material beginning with that line and ending with page ~~23~~, line 4 and substitute:

“SECTION 44m. 51.30 (5) (b) 2. of the statutes is amended to read:

51.30 (5) (b) 2. A minor ~~upon reaching the age of who is aged 14 or older~~ shall have access to his or her own court and treatment records, as provided in this section. A minor under the age of 14 shall have access to court records but only in the presence of a parent, guardian, counsel, guardian ad litem or judge and shall have access to treatment records as provided in this section but only in the presence of a parent, guardian, counsel, guardian ad litem or staff member of the treatment facility.”.

19. Page 24, line 2: delete “may receive assistance from” and substitute “shall be informed about how to contact”.

(END)